

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

September 29, 2005

DIVISION ONE

B180505 People (Not for Publication)

v.
Ernesto Monge

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.
Rothschild, J.

B173617 People (Not for Publication)

V.
Jose M.

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.
Rothschild, J.

B181685 People (Not for Publication)

V.
Richard Thomas

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Rothschild, J.

September 29, 2005 (Continued)

DIVISION ONE (Continued)

B179763 People (Not for Publication)
v.
Thomas Allan Jones

The order under review is modified to delete the modified conditions of probation that defendant “not reside with mother at 1501 E Ave I #104 as long as Mrs. Brumhead resides at #101” and that defendant “[m]ay visit [his] mother between 6 pm and 12 am,” and the matter is remanded for further proceedings with respect to defendant's conditions of probation. As modified, the order under review is affirmed.

Mallano, J.

We concur: Spencer, P.J.
Rothschild, J.

B181002 Los Angeles County, D.C.S. (Not for Publication)
v.
Jacqueline E.

The judgment is affirmed.

Spencer, P.J.

We concur: Mallano, J.
 Rothschild, J.

B179379 County of Los Angeles (Not for Publication)
v.
Harco National Insurance Company

The order and judgment are affirmed.

Spencer, P.J.

We concur: Mallano, J.
 Rothschild, J

September 29, 2005 (Continued)

DIVISION ONE (Continued)

B177621 People (Not for Publication)
v.
Garcia, Jr.

The judgment is reversed. Pursuant to Business and Professions Code section 6086.7, subdivision (b), the clerk of this court is directed to send a certified copy of this opinion to the State Bar.

Mallano, J.

We concur: Spencer, P.J.
Rothschild, J.

[illegible]

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.
Rothschild, J.

B175732 People (Not for Publication)
v.
Young III

The judgment is modified to stay, pursuant to Penal Code section 654, the sentences on counts 3, 5, 8, 14, 22, 24, 27 and 30 and the enhancements on counts 22 and 30. As so modified, the judgment is affirmed. The clerk of the court is directed to prepare an amended abstract of judgment and forward a copy to the Department of Corrections.

Spencer, P.J.

We concur: Mallano, J.
 Rothschild, J.

September 29, 2005 (Continued)

DIVISION ONE (Continued)

B167342 People (Not for Publication)
v.
Green et al.

The judgment is affirmed.

Spencer, P.J.

We concur: Mallano, J.
 Rothschild, J.

B177419 People (Not for Publication)
v.
Frederick R. Taft

The order revoking defendant's probation in case number NA057991 is affirmed insofar as it is based on the finding that defendant possessed cocaine. The trial court's finding that resisting arrest further justified revocation of defendant's probation is reversed. We vacate the sentence and remand for resentencing in conformity with Proposition 36. Upon proper notice to defendant, the People may seek a new revocation hearing based upon defendant's resistance to arrest, in addition to his possession of cocaine. Should the trial court determine once again that defendant resisted arrest, it may sentence defendant anew to state prison.

Spencer, P.J.

We concur: Mallano, J.
 Rothschild, J.

September 29, 2005 (Continued)

DIVISION ONE (Continued)

B181752 People (Not for Publication)
v.
De La Cruz

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.
Rothschild, J.

DIVISION TWO

9-29-05

990220-05

The HONORABLE **KENNETH R YEAGAN**, Associate Justice of the Court of Appeal, Second Appellate District, Division Six, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division Two, as a justice thereof, on the following dates:

October 1, 2005 to November 30, 2005

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

Dated: September 19, 2005

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

September 29, 2005 (Continued)

DIVISION TWO (Continued)

B110119 People v. Wells (Not for Publication)
B116065 In re Wells on Habeas Corpus

The convictions on counts 2, 3 and 4 are reversed. The judgment is affirmed in all other respects. The order to show cause is discharged. The petition for writ of habeas corpus is denied.

Nott, J. (Assigned)

We concur: Boren, P.J.
 Ashmann-Gerst, J.

B178553 People (Not for Publication)
 v.
 Morales

The judgment is affirmed.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

B169930 People
 v.
 Walker

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION THREE

B174620 People v. Duarte (Not for Publication)

The judgment is reversed and the matter is remanded with the following directions. Following remand, and consistent with the views expressed in this opinion, the trial court must conduct an in camera inspection of the requested personnel records for relevance. If the trial court's inspection on remand reveals no relevant information, the trial court must reinstate the judgment of conviction, which shall then stand affirmed. If the inspection reveals relevant information, the trial court must order disclosure, allow defendant an opportunity to demonstrate prejudice, and order a new trial if there is a reasonable probability the outcome would have been different had the information originally been disclosed.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

[illegible]

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

September 29, 2005 (Continued)

DIVISION THREE (Continued)

B177592 People (Not for Publication)
v.
Puerto

The judgment is modified by striking appellant's conviction for attempted rape (count one) and, as modified, the judgment is affirmed. The trial court is directed to forward to the Department of Corrections an abstract of judgment reflecting the above modification.

Kitching, J.

We concur: Klein, P.J.
Croskey, J.

B175933 People (Not for Publication)
v.
Garibay

The judgment (order granting probation) is reversed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B168163 William F. Bothwell et al.
v.
Abbott Laboratories, Inc. et al.

Filed order vacating submission order of June 29, 2005. Due to the press of other court business and the complexity of the issues additional time is needed to complete and file the opinion in this matter. Cause resubmitted.

DIVISION FOUR

B180794 People (Not for Publication)
v.
Padilla

The judgment is affirmed.

Hastings, J.

We concur: Epstein, P.J.
Willhite, J.

B181858 People (Not for Publication)
v.
Hewitt

The judgment is affirmed.

Epstein, P.J.

We concur: Hastings, J.
Willhite, J.

DIVISION FIVE

B174456 Daysi Rivas-Smith (Not for Publication)
v.
Los Angeles County et al.

The judgment is affirmed as to plaintiff's claims for discriminatory and retaliatory discharge and reversed as to her claim for harassment. The parties are to bear their own costs on appeal.

Mosk, J.

I concur: Kriegler, J. (opinion)
I dissent: Armstrong, Acting P.J. (opinion)

September 29, 2005 (Continued)

DIVISION FIVE (Continued)

B182492 Los Angeles County, D.C.S.
v.
Mabel V.

Submission of September 6, 2005, is vacated to due death of counsel.
Matter calendared for oral argument on November 1, 2005 at 11:00 a.m.

DIVISION SIX

[illegible]

The dispositional order of the juvenile court is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Yegan, J.

B181101 Santa Barbara County (Not for Publication)
Child Welfare Services
v.
Fermin Z., et al.,

The orders of the juvenile court are affirmed.

Perren, J.

We concur: Gilbert, P.J.
Yegan, J.

DIVISION SIX (Continued)

B182145 County of San Luis Obispo (Not for Publication)
 v.
 Worker's Compensation Appeals Board
 Art Martinez, Respondent

The order of the WCAB is annulled.

Coffee, J.

We concur: Gilbert, P.J.
 Perren, J.

DIVISION EIGHT

Court convened at 9:00 a.m.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Connie Hon, Deputy Clerk.

Each of the following:

B175379 DCFS v. Kristen W.
B178308 People v. Morones
B178639 People v. Joe G.
B179040 People v. Sanchez
B179863 People v. Milla
B181138 DCFS v. Raymond M.
B182239 DCFS v. Miranda & Fernando P.
B173183 People v. Dinkins
B183746 Grier v. SCLA (DCFS)
B171595 Ajrab v. Villa Apartments Association
B172591 People v. Latisha S.
B176369 People v. Mojica
B177201 People v. Jackson
B179476 DCFS v. Myisha S.
B181144 DCFS v. Danilo M.
B183392 Rehmann v. SCLA (DCFS)

Argument waived, cause submitted.

DIVISION EIGHT (Continued)

Each of the following:

B176712 Handler v. Farquharson
B176355 Ziv v. Twarowski, III

Matter continued to October 31, 2005, at 9:00 a.m.

B175816 Albertson's, Inc.,
 v.
 Fair Employment & Housing Commission

Matter continued to October 31, 2005, at 1:00 p.m.

Each of the following:

B167850 People v. Morales
B177634 In re the Marriage of Ryngler

Matter continued to November 7, 2005, at 9:00 a.m.

B179025 Kuhn,
 v.
 Lamphear et al.

Merits:

Argued by Hamed Amiri Ghaemmaghani for respondents and Robert Damone appearances only for appellant. Cause submitted.

B174910 People
 v.
 Rutigliano

Appearances:

William H. Shin, Deputy Attorney General for respondent and no appearance by counsel for appellant. Argument waived, cause submitted.

DIVISION EIGHT (Continued)

B170786 L & B Real Estate et al.,
 v.
 Kenneth J. Pingree, Jr. et al.,

Merits:

Argued by Mitchel J. Ezer for appellants and by M. J. Mouser for respondents. Cause submitted.

Presiding Justice Cooper leaves the bench.

B176295 Peacock et al.,
 v.
 Glovia International LLC,

Merits:

Argued by Marvin E. Krakow for appellants and by Teresa R. Tracy for respondent. Cause submitted.

Court recessed at 10:21 a.m.

Court reconvened at 10:33 a.m.

Present: Cooper, P.J., Rubin, J., Flier, J. and Connie Hon, Deputy Clerk.

B181336 Los Angeles County, D.C.S.
 v.
 Jarvette B.,

Merits:

Argued by Lisa A. DiGrazia for appellant and by Fred Klink, Deputy County Counsel for respondent. Cause submitted.

DIVISION EIGHT (Continued)

B175388 Business To Business Market, Inc.,
 v.
 Professional Liability Insurance Services,

Merits:
Argued by Stuart Esner for appellant and by Daniel H. Lee for respondent.
Cause submitted.

Court recessed 11:15 a.m.

Court reconvened at 1:00 p.m.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Connie Hon, Deputy Clerk.

B178009 People
 v.
 Miller

Merits:
Argued by Matthew D. Alger for appellant and by Daniel Chang, Deputy
Attorney General for respondent. Cause submitted.

B177152 People
 v.
 William R.

Merits:
Argued by Jan B. Norman for appellant and by Richard S. Moskowitz,
Deputy Attorney General for respondent. Cause submitted.

B185345 Cook, II,
 v.
 Absher,

Merits:
Argued by Thomas Dunlap for appellant and by Linda Barney for
respondent. Cause submitted.

DIVISION EIGHT (Continued)

B168637 City Of Los Angeles
 v.
 Today's IV, Inc., et al.,

Merits:
Argued by Christopher Sutton for appellants and by Michael C. Weed for
respondent. Cause submitted.

Justice Rubin leaves the bench.

B167287 Kelly
B171369 v.
 Stamps.Com, Inc.,

Merits:
Argued by Shane Stafford for appellant/respondent and by Paul J. Coady
for respondent/appellant. Cause submitted.

Justice Rubin returns to the bench.

Justice Flier leaves the bench.

B175580 California Oak Foundation et al.
 v.
 City Of Santa Clarita,

Merits:
Argued by Babak Naficy for appellants and by Stephen R. Onstot and Anne
E. Mudge for respondents. Cause submitted.

Justice Flier returns to the bench.

DIVISION EIGHT (Continued)

B169636 Consumer Advocacy Group, Inc.
 v.
 Kintetsu Enterprises Company of America et al.

Merits:

Argued by Reuben Yeroushalmi for appellant, by Edward G. Weil, Deputy Attorney General for Amicus Curiae and by Anthony Graham, Scott Kruse, Patrick Dennis and Jeff Riffer for respondents. Stephanie Jones, Kurt Weissmuller, Michael G. Romey and Ryan Lapidus appear for respondents but do not present argument. In open court, parties are directed to file letter briefs by Oct. 13, 2005. Submission deferred until October 13, 2005.

Presiding Justice Cooper leaves the bench.

B179680 Pitluck
 v.
 Beverly Enterprises, Inc., et al.,

Merits:

Argued by Russell Balisok for appellant and by Roy G. Weatherup, Barry S. Landsberg and Linda E. Klamm for respondents. Lori Ferguson and Eric T. Jorgensen appear for respondents but do not present argument. Cause submitted.

Court adjourned at 6:36 p.m

B176484 People
 v.
 Gonzalez

Filed order vacating submission order of June 29, 2005. The matter will be re-calendared for oral argument.

DIVISION EIGHT (Continued)

B179588 Defendant DOE 2, (Certified for Publication)

v.

Superior Court, Los Angeles County
(Mark Calkins et al., r.p.i.)

The petition for writ of mandate is granted in part. The respondent court is directed to vacate its November 18, 2004 order granting the motions of real parties in interest to compel further responses to form interrogatories (set one) and to compel further responses to a request for identification, inspection and production of documents, and to thereafter reconsider the motions in a manner consistent with the views expressed herein. The parties are to bear their own costs in this writ proceeding. (Cal. Rules of Court, rule 56(l)(2).)

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B177642 Elliott, (Not for Publication)

v.

Firearms Training Systems, Inc.

The order of dismissal is affirmed. Each party is to bear its own costs on appeal.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

September 29, 2005 (Continued)

DIVISION EIGHT (Continued)

B171712 People (Not for Publication)
v.
Castro et al.

The judgments of guilt are affirmed in all respects. The matter is remanded for resentencing, consistent with this decision.

Cooper, P.J.

We concur: Rubin, J.
Flier, J.